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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,674		Rajan Keshav Panandiker	7414	6636

27752 7590 06/05/2003

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CINCINNATI, OH 45224

EXAMINER
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MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/890,674

Applicant(s)

PANANDIKER, RAJAN KESHAV

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other:  |

### **DETAILED ACTION**

1. The examiner makes of record that instant claims 24-25 recite a broad component followed by a narrower component with the term "preferably". For examination purposes, the examiner asserts that the narrower components recited in instant claims 24-25 are merely exemplary components, and thus, the prior art will be applied against the broadest component recited in instant claims 24-25. Furthermore, the examiner suggests that applicant should delete the narrower components from instant claims 24-25, and add new dependent claims that recite the narrower components recited in instant claims 24-25.

### ***Specification***

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Objections***

3. Claims 12-28 are objected to because of the following informalities:

In instant claim 12, a comma should appear between the terms "amphoteric" and "zwitterionic" for grammatical purposes.

In instant claim 12, the comma after the term "5.0%" should be deleted for consistency purposes.

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In instant claim 22, the comma after the term "5.0%" should be deleted for consistency purposes.

Instant claims 13-21 and 23-28 are objected to for being dependent upon a claim with the above addressed claim objection.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 12-28 are rejected under 35 U.S.C. 102(a) as being anticipated by Boeckh et al, DE 19643281.

Boeckh et al, DE 19643281, discloses a detergent composition comprising 1-50% by weight of a nonionic surfactant, 0-4.0% by weight of an anionic surfactant, and 0.05-2.5% by weight of a polycationic condensate obtainable by condensing piperazine with epihalohydrins (see abstract of Boeckh et al, DE 19643281 and the abstract of US equivalent Patent No. 6,025,322). Specifically, note Tables 3 and 4, Examples 1-12 of

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Boeckh et al, which disclose detergent and fabric softening compositions comprising cyclic amine polymers, sodium perborate, sodium bicarbonate, surfactants, carboxymethylcellulose, cellulase enzymes, and water, per the requirements of the instant invention. Furthermore, regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." Ex parte Gwinn 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention, and thus are not accorded any patentable weight. Therefore, instant claims 12-28 are anticipated by Boeckh et al, DE 19643281.

6. Claims 12-28 are rejected under 35 U.S.C. 102(a) as being anticipated by Wang et al, WO 98/29528.

Wang et al, WO 98/29528, discloses a laundry detergent composition comprising 1-80% by weight of a deterative surfactant (see page 3, lines 26-28), 0.1-80% by weight of a detergent builder (see page 5, lines 10-12), and 0.1-8% by weight of a hydrophobically-modified cellulose polymer with a molecular weight of 10,000-2,000,000

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(see page 6, line 8-page 9, line 14). It is further taught by Wang et al that the detergent composition may also contain bleaches, bleach activators, enzymes, enzyme stabilizers, pH adjusting agents, and soil release agents (see page 9, lines 15-23), per the requirements of the instant invention. Specifically, note Examples 1-2.

Furthermore, regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." Ex parte Gwinn 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention, and thus are not accorded any patentable weight. Therefore, instant claims 12-28 are anticipated by Wang et al, WO 98/29528.

7. Claims 12-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Leupin et al, U.S. Patent No. 6,384,011.

Leupin et al, U.S. Patent No. 6,384,011, discloses a laundry detergent composition comprising 0.1-5% by weight of a hydrophobically modified cellulosic polymer having a molecular weight between 5,000-2,000,000 (see col. 3, line 63-col. 6,

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line 4), and 1-80% by weight of a deterative surfactant (see col. 6, lines 7-9). It is further taught by Leupin et al that the detergent composition may also contain bleaches, bleach activators, enzymes, enzyme stabilizers, pH adjusting agents, and soil release agents (see col. 8, line 31-col. 11, line 3), per the requirements of the instant invention.

Specifically, note Examples 1-2. Furthermore, regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." Ex parte Gwinn 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention, and thus are not accorded any patentable weight. Therefore, instant claims 12-28 are anticipated by Leupin et al, U.S. Patent No. 6,384,011.

### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 12-22 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of Leupin et al, U.S. Patent No. 6,384,011. Although the conflicting claims are not identical, they are not patentably distinct from each other because Leupin et al, U.S. Patent No. 6,384,011, claims a similar detergent composition comprising 1-80% by weight of a surfactant and 0.1-5.0% by weight of a hydrophobically modified cellulosic based polymer (see claim 1 of US Patent No. 6,384,011), and a laundry additive comprising 1-80% by weight of water and 0.1-5.0% by weight of a hydrophobically modified cellulosic based polymer (see claim 6 of US Patent No. 6,384,011), as required by applicant in instant claims 12-22 and 28. Furthermore, regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." Ex parte Gwinn 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they



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do not contribute a patentable difference to applicant's invention, and thus are not accorded any patentable weight. Therefore, claims 12-22 and 28 of the instant invention are an obvious formulation in view of claims 1-10 of Leupin et al, U.S. Patent No. 6,384,011.

10. Claims 12-22 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of Heltoivics, U.S. Patent No. 6,472,364. Although the conflicting claims are not identical, they are not patentably distinct from each other because Heltoivics, U.S. Patent No. 6,472,364, claims a similar detergent composition comprising 0.01-90% by weight of an anionic cellulose material and 0.01-90% by weight of a cyclic amine based polymer (see claims 1-10 of US Patent No. 6,472,364), as required by applicant in instant claims 12-22 and 28. Furthermore, regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." Ex parte Gwinn 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention, and thus are not

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accorded any patentable weight. Therefore, claims 12-22 and 28 of the instant invention are an obvious formulation in view of claims 1-10 of Heltovics, U.S. Patent No. 6,472,364.

11. Claims 12-28 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-28 of copending Application No. 09/806,882. Although the conflicting claims are not identical, they are not patentably distinct from each other because Panandiker et al, copending Application No. 09/806,882, claims a similar detergent composition comprising 1-80% by weight of a surfactant, 0.1-50% by weight of a mixture of A) cyclic amine based polymers, and B) hydrophobically modified cellulosic based polymers, 1-80% by weight of water, cellulase enzymes, an enzyme stabilizing system, an inorganic peroxygen bleaching compound, a bleach activator, and a carrier (see claims 11-28 of Panandiker et al, copending Application No. 09/806,882), as required by applicant in instant claims 12-22 and 28. Furthermore, regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." Ex parte Gwinn 112 USPQ 439. As the compositions are anticipated,

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and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention, and thus are not accorded any patentable weight. Therefore, claims 12-28 of the instant invention are an obvious formulation in view of claims 11-28 of Panandiker et al, copending Application No. 09/806,882

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM

Brian Mruk  
May 20, 2003

Brian P. Mruk

Brian P. Mruk  
Patent Examiner  
Tech Center 1700